

1633  
JFW

O I P E Attorney Docket No.: 9099-4

PATENT

AV 21 2004 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Robert D. Black

Group: 1633

Serial No.: 10/005,889

Examiner: G. Counts

Filed: November 7, 2001

Confirmation No.: 7939

For: METHODS, CIRCUITS AND COMPOSITIONS OF MATTER FOR IN VIVO  
DETECTION OF BIOMOLECULE CONCENTRATIONS USING FLUORESCENT  
TAGS

May 19, 2004

MS NON-FEE AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT AND AMENDMENT**

Sir:

Applicant provides the present Response and Amendment to address the issues raised in the Restriction Requirement dated April 19, 2004. Applicant respectfully requests entry of this Amendment and allowance of the application.

It is not believed that an extension of time and/or additional fee(s), including fees for additional claims, are required, beyond those that may otherwise be provided for in documents accompanying this paper. In the event, however, that an extension of time is necessary to allow consideration of this paper, such an extension is hereby petitioned under 37 C.F.R. §1.136(a). Any additional fees believed to be due in connection with this paper may be charged to our Deposit Account No. 50-0220.

**Amendments to the Claims** are reflected in the listing of claims, which begins on page 2 of this paper.

**Remarks/Arguments** begin on page 6 of this paper.

2202 - 9

05/27/2004 MERCER 00000004 500220 10005889  
01 FC:2202 9.00 DA

if the apparatus claims include a claim to "means" for practicing the process, the claim is a linking claim and must be examined with the elected invention. If it is ultimately allowed, rejoinder is required.

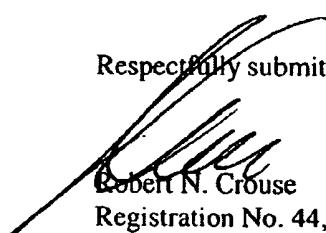
Therefore, as understood by Applicant, at least new Claim 23 must be searched with the Claims included in provisionally elected Invention II, which, Applicant submits obviates any serious burden of examining the Claims of Invention I.

Applicant has also added new Claims 24-28, which recite subject matter included in Invention II. Accordingly, Applicant respectfully requests entry and examination of new Claims 24-28 as included in Invention II.

In summary:

1. Applicant provisionally elects Invention II for examination on the merits and respectfully requests the withdrawal of the restriction with respect to Invention I;
2. Applicant has added new Claims 24-28, which are included in provisionally elected Invention II;
3. Applicant has added new Claim 23, which recites the subject matter of Claim 1 in means plus function format which provides additional bases for the examination of the Claims included in Invention I.

Respectfully submitted,



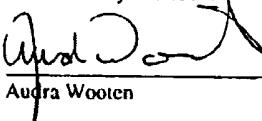
Robert N. Crouse

Registration No. 44,635

Myers Bigel Sibley & Sajovec, P.A.  
Post Office Box 37428  
Raleigh, NC 27627  
Telephone (919) 854-1400  
Facsimile (919) 854-1401

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MS Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450. Alexandria, VA, 22313-1450, on May 19, 2004.



Audra Wootten